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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,550

01/02/2004

Xin Zhang

1614.1376

8764

21171

7590

11/01/2005

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EXAMINER

KHUU, HIEN DIEU THI

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/749,550

Applicant(s)

ZHANG, XIN

Examiner

Cindy D. Khuu

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/19/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,10,16 and 17 is/are rejected.
- 7) ☒ Claim(s) 3,4,8,9,18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/02/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of invention III, claims 1-10 and 16-19 in the reply filed on 10/19/05 is acknowledged. Claims 11-15 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions II and I. Withdrawn claims have been cancelled.

### ***Drawings Objection***

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5-7, 10, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawazaki (JP 05073573).

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With respect to claims 1, 6 and 16, Sawazaki discloses a yield percentage (paragraph 1, shrinkage yield setting device) managing apparatus, method and computer-readable storage medium for managing a yield percentage of a target processed product (logical quantities) with respect to at least one target raw material (physical quantity) by use of a computer (Abstract), comprising: a control unit to correct (notation 33, yield ratio correcting means) or update (notations 3 and 8; yield ratio updating means) the yield percentage based on a processed amount K which indicates a total weight of target items of the target processed product processed from the target raw material (paragraph 4).

With respect to claims 2, 7 and 17, Sawazaki discloses a yield percentage managing apparatus, method and computer-readable storage medium wherein said control unit includes means for obtaining an amount of the yield percentage to be corrected or updated, based on an initial value of the yield percentage and the processed amount K (paragraph 24, last sentence).

With respect to claims 5 and 10, Sawazaki discloses a yield percentage managing apparatus and method wherein the processed amount K is generated by a measuring apparatus which is coupled to the yield percentage managing apparatus based on measurement information which is obtained by measuring the target processed product by the measuring apparatus, and input to said control unit from the measuring apparatus (notation 32, new shrinkage yield count means).

#### ***Allowable Subject Matter***

Claims 3-4, 8-9 and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, taken alone or in combination, fails to disclose or render obvious, which makes the following claims allowable over the prior art:

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With respect to claims 3, 8 and 18, the yield percentage managing apparatus, method and computer-readable storage medium comprising: a first calculation unit to calculate an amount P of the target raw material used during a present term from  $P=M+N-L$ , where M denotes an amount of initial stock of the target raw material, N denotes a buying amount of the target raw material, and L denotes an amount of final stock of the target raw material; and a second calculation unit to calculate a theoretical value Q of the amount of the target raw material used during the present term from  $Q=K/Yr$ , using the processed amount K and an initial value Yr of the yield percentage the target product, wherein said control unit includes correction means for obtaining a compared result by comparing the amount P of the target raw material used and the theoretical value Q, and for automatically correcting or updating the initial value Yr depending on an error of the compared result.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yoshikawa et al. (US 6,248,383).

### ***Fax/Telephone Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy D. Khuu whose telephone number is (571) 272-8585. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CHL 10/28/05



John Barlow  
Supervisory Patent Examiner  
Technology Center 2800